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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,528	12/18/2000	Rabindranath Dutta	AUS920000919US1	2040

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HULSEY, GREETHER, FORTKORT & WEBSTAR  
8911 CAPITAL OF TEXAS HIGHWAY  
SUITE 3200  
AUSTIN, TX 78758

EXAMINER

LEZAK, ARRIENNE M

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/740,528

Applicant(s)

DUTTA, RABINDRANATH

Examiner

Arrienne M. Lezak

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-14 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-14 and 16-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

1. Examiner notes that Claims 1, 8 & 14 have been substantively Amended, Claims 5 & 16-19 have been non-substantively Amended, Claims 4 & 15 have been Cancelled and Claims 20 & 21 have been Added. Claims not explicitly addressed herein are found to be addressed within prior Office Action dated 29 April 2004 as reiterated herein below.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-14 & 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over further consideration of US Patent US 6,288,753 B1 to DeNicola.

4. Regarding Newly Amended Claims 1, 8 & 14 and Original Claims 6, 12 & 18, DiNicola discloses a method, system and computer program product for administering exam content from a server to at least one client over a network, (Abstract; Col. 3, lines 31-33; Col. 4, lines 51-67; and Col. 5, lines 1-7), comprising:

- registering at least one (or a plurality – per pending Claims 6, 12 and 18) exam(s) submitted by an exam provider with the server, (Col. 4, lines 51-67; Col. 5, lines 1-7 and 49-67; Col. 6, lines 1-21 and Col. 11, lines 65-67);

- transmitting a video frame of a student to the server at least during the exam, (per Newly Amended Claims 1, 8 & 14), (Abstract; Col. 4, lines 21-67; Col. 5, lines 1-7; Col. 7, lines 15-30; and Col. 17, lines 27-67);
- generating a transcript in response to answers submitted by a student to at least one exam question resident on the server, (Col. 13, lines 37-64); and
- providing access to the transcript to at least one third party, (Col. 13, lines 65-67; Col. 14, lines 1-67; and Col. 15, lines 1-57).

5. As noted herein, DeNicola discloses transmission of a video frame of a student to the server during the exam. DeNicola does not specifically enumerate that such transmission is for directed use of student verification, however, to use the video for student verification purposes would have been obvious to one of ordinary skill in the art at the time of invention by Applicant. The motivation to combine exits within DeNicola which teaches test taking, (Abstract), and report creation, (Col. 15, lines 34-45), providing on-line learning reinforcement regarding on-line learning/training courses and testing to an end user coupled to the Internet via WebPages, (Col. 6, lines 6-21). As DiNicola further provides for third-party viewing of test information for teaching/evaluation purposes, association of student work, with a visual depiction of the student would have aided in the same. Thus, it would have been obvious for a student report, (or transcript) to contain a visual depiction of the student for verification purposes, especially considering the fact that DiNicola provides for said visual depiction as well as student reports. Examiner further notes that nowhere in the original claims

does Applicant enumerate the specific directed use of visual depiction for student verification. Thus, Newly Amended Claims 1, 8 & 14 and Original Claims 6, 12 & 18 are found to be unpatentable over considerable consideration of DeNicola.

6. Regarding Claims 2, 10 & 16, DiNicola discloses a method, system and computer program product for administering exam content further comprising providing an exam content generator with access to registered exams on the server, (Col. 11, lines 48-67; Col. 12, lines 1-67 and Col. 13, lines 1-47). Thus, Claims 2, 10 & 16 are found to be unpatentable over considerable consideration of DeNicola.

7. Regarding Claims 3, 9 and 17, DiNicola discloses a method, system and computer program product for administering exam content further comprising providing an exam grader with access to student's answers on the server, (Col. 13, lines 37-64 and Col. 17, lines 44-60). Thus, Claims 3, 9 and 17 are found to be unpatentable over considerable consideration of DeNicola.

8. Regarding Newly Added Claims 20 & 21 and Original Claim 11, DiNicola discloses a method, system and computer program product for administering exam content further comprising transmitting a video frame of the student to the server at at least one random point in time while the student is taking the exam, (per pending Claims 4 & 15), wherein the server comprises a means for accepting, (recording) and storing video images of the student, (per pending Claim 11), (Abstract; Col. 4, lines 21-67; Col. 5, lines 1-7; Col. 7, lines 15-30; and Col. 17, lines 27-67). As noted above, Examiner reiterates that as DiNicola further provides for third-party viewing of test information for teaching/evaluation purposes, association of student work with a visual

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depiction of the student would have aided in the same. Thus, it would have been obvious for a student report, (or transcript) to contain a visual depiction of the student for verification purposes, especially considering the fact that DiNicola provides for said visual depiction as well as student reports. Thus, Newly Added Claims 20 & 21 and Original Claim 11 are found to be unpatentable over considerable consideration of DeNicola.

9. Regarding Claim 5, DiNicola discloses a method, system and computer program product for administering exam content wherein the transcript further comprises at least one video image of the student, (Abstract; Col. 4, lines 21-67; Col. 5, lines 1-7; Col. 7, lines 15-30 and 61-64; Col. 15, lines 27-45; and Col. 17, lines 9-67). As noted above, Examiner reiterates that as DiNicola further provides for third-party viewing of test information for teaching/evaluation purposes, association of student work with a visual depiction of the student would have aided in the same. Thus, it would have been obvious for a student report, (or transcript) to contain a visual depiction of the student for verification purposes, especially considering the fact that DiNicola provides for said visual depiction as well as student reports. Thus, Claim 5 is found to be unpatentable over considerable consideration of DeNicola.

10. Regarding Claims 7, 13 and 19, DiNicola discloses a method, system and computer program product for administering exam content further comprising recording a student's answers to at least one exam question presented by the server; and grading the student's answers to generate an exam result, (Col. 13, lines 37-64). Thus, Claims 7, 13 and 19 are found to be unpatentable over considerable consideration of DeNicola.

***Response to Arguments***

11. Applicant's arguments filed 2 September 2004, have been fully considered but they are not persuasive. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how reconsideration avoids such references or objections.

12. In response to Applicant's argument that DiNicola uses student images to create a "class-like atmosphere", Examiner notes that the fact that Applicant has recognized another advantage that would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

13. In response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "use of a vide frame for verification of student identity") are not recited in the rejected claim(s). As noted herein above, Examiner finds no mention of the specific directed use enumerated by Applicant in the Amended Claims. Additionally, Examiner notes that the application of Applicants specific directed use would have been obvious, as further noted herein.

14. Thus, as Examiner has completely addressed Applicant's amendment, and finding Applicant's arguments do not show how reconsideration avoids such references

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or objections, Examiner hereby rejects all claims in their entirety. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (703)-305-0717. The examiner can normally be reached on M-F 8:30-4:30.

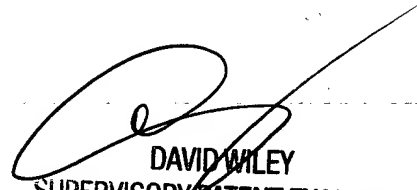
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703)-308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703)-305-3718.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-6121.

Arrienne M. Lezak  
Examiner  
Art Unit 2143

AML



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